

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

TERENCE SHEFFIELD, #08064976,

Plaintiff,

v.

**OFFICER JOHN LEE and WHOLE
FOODS,**

Defendants.

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Civil Action No. **3:08-CV-1102-L**

ORDER

Before the court is Sheffield's Civil Rights Complaint, filed June 30, 2008. Pursuant to Special Order 3-251, the complaint was referred to United States Magistrate Judge Irma C. Ramirez, on June 30, 2008. On September 11, 2008, the Findings, Conclusions, and Recommendation of the United States Magistrate Judge ("Report") was filed. No objections to the Report have been filed.

This is a civil rights action brought by a *pro se* inmate pursuant to 42 U.S.C. § 1983. The magistrate judge found that Plaintiff's allegations arguably raise a claim against Officer John Lee for excessive force in violation of the Fourth Amendment. She also found that Plaintiff failed to state a claim against Whole Foods for failure to train and discrimination under section 1983, discrimination under 42 U.S.C. §§ 1981(a) and 1982, and defamation. She further found that Plaintiff's defamation claim is barred by the statute of limitations.

Having reviewed the complaint, questionnaires, record, and the Report in this case, the court determines that the findings and conclusions are correct. The magistrate judge's findings and conclusions are therefore **accepted** as those of the court. The court therefore **dismisses with prejudice** the claims against Defendant Whole Foods as frivolous pursuant to 28 U.S.C. §§

1915A(b) and 1915(e)(2) and **orders** service of process to be issued to Defendant Officer John Lee on Plaintiff's excessive force claim.

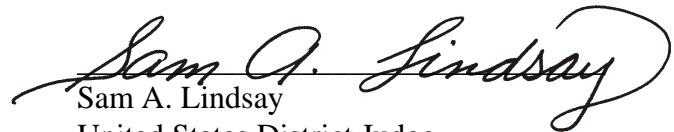
Because Plaintiff was previously granted leave to proceed *in forma pauperis*, the clerk of the court is **directed** to mail a copy of this order to Plaintiff or his attorney of record; prepare and issue a summons for Defendant John Lee;* and deliver the summons to the United States Marshal for service of process pursuant to Fed. R. Civ. P. 4, along with a copy of the complaint received June 30, 2008; amended complaint received July 29, 2008; answers to the two Magistrate Judge's Questionnaires filed in this action; and the Report.

Pursuant to Fed. R. Civ. P. 4(c)(3), the United States Marshal's Service shall, within thirty days of the date of this order, effect service upon Defendant John Lee in accordance with Fed. R. Civ. P. 4 and file proof of service in accordance with Fed. R. Civ. P. 4(l). In the event Defendant is no longer associated with the Highland Park Police Department, the United States Marshal **shall command** all necessary assistance from the Highland Park Police Department to execute this order.

At all times during the pendency of this action, Plaintiff shall immediately notify the court of any change of address and its effective date. Such notice shall be captioned "NOTICE TO THE COURT OF CHANGE OF ADDRESS." The notice shall contain **only** information pertaining to the change of address and its effective date. Failure to file a NOTICE TO THE COURT OF CHANGE OF ADDRESS may result in the dismissal of the complaint for failure to prosecute pursuant to Federal Rule of Civil Procedure 41(b).

*Plaintiff has provided an address and other identifying information in his Answers to Second Magistrate Judge's Questionnaire.

It is so ordered this 18th day of November, 2008.


Sam A. Lindsay
United States District Judge